REMARKS/ARGUMENTS

Claim Rejection based on 35 USC 101.

Claim 39 was rejected under 35 USC § 101 as being directed to non-statutory subject matter. In response, claim 39 has been amended to recite "computer program stored in computer readable media" which should overcome this rejection.

Claim Rejections based on 35 USC 103.

Claim 1 has been amended to recite, *inter alia*, "detecting … a predetermined data type based on a tag or label associated with the data manipulated by the process or based on the format of the data manipulated by the process".

Claim 22 has been amended to recite "detecting both (i) a predetermined data type based on a tag or label associated with the data or based on the format of the data and (ii) predetermined system calls involving the writing of data outside the process, and applying a data handling policy to a system call upon both said predetermined data type and said a predetermined system call being detected, the data handling policy being applied for all system calls involving the writing of data outside the process."

Claim 41 has been amended to recite "a policy applicator for applying a data handling policy to the system call upon both (i) a predetermined data type based on a tag or label associated with the data handled by the process or based on the format of the data handled by the process and (ii) a predetermined system call which involves the writing of data outside the process."

The Examiner cites Andrews for its disclosure of monitoring calls to see if the caller is a member of a role permitted to make the call and a policy applicator for applying a data handling policy to system calls.

The independent claims, as noted above, have been amended to more clearly distinguish them from Andrews and the other art cited by the Examiner. Claim 1, for example, now requires "detecting ... a predetermined data type based on a tag or label associated with the data manipulated by the process or based on the format of the data manipulated by the process".

Turning briefly to the Examiner citation of Andrew and Hardy against original claims 5-7 and 26-28, the Examiner quotes Hardy's teachings at column 4, lines 11-14, a quote taken out of a rather confusing context.

Hardy is concerned with "a new fundamental architecture designed on the principal of 'mutual distrust'. That is, each user is assumed to have interests inimical to all other users of the computer system, including some of the system programmers. The structure of the system is such that a user can use system utilities without having to trust the author of the utility; i.e., the utility cannot steal a copy of the user's data, or make any other use thereof, without the user's permission." See column 1, lines 10-26 of Hardy.

Hardy tells the reader that the term "key" is meant to refer to a "capability" of a domain to use a specified portion of the system's resources. Hardy also talks about "domains" and "nodes" and such things as "primordial objects". See the paragraph cited by the Examiner and also the paragraph beginning at column 5, line 19, where the reader is told that Hardy's invention "provides an architecture, including a set of primordial objects with which the architecture is implemented, upon which an operating system can be built." The reader by now has also learned that Hardy "domains" are not what a person skilled in the art would think they might be (they appear to be individual or virtual machines or users or something smaller than a computer as opposed to a group of networked computers) and a node is something which a domain has at least one of and which stores "keys" or really "capabilities". Note the confusing

definitions given for domains and nodes in the paragraph at column 6, lines 15-36.

Hardy seems to use such non-conventional terminology that it is difficult to see though the mist and determine what he is really teaching. For another example, look at the use of the word "kernel". Of course, "kernel" is commonly used in connection with conventional operating systems, but in Hardy the reader is told that Hardy's invention is used as some "architecture, including a set of primordial objects with which the architecture is implemented, upon which an operating system can be built." So the operating system hasn't been built as yet when considering Hardy teachings, but primordial objects apparently need to be considered, which are "domains, nodes, keys and pages". Not very helpful. So just what is his "kernel"? Well, the reader is told that Hardy's kernel, whatever it is, "can create, copy and alter keys, and only the kernel can create and alter the structure of domains." (See column 6, lines 41-58.) But the term "domain" is either a computer or a virtual machine or a user or something else. And the reader is also told that "the most fundamental kernel functions implemented in hardware." Hardy's kernel does not sound like a traditional operating system kernel, just like his domain isn't a conventional domain and his node isn't a conventional node. Given such non-conventional use of technical terminology, does the sentence quoted by the Examiner have a rational meaning in conventional technical terminology or is it just a collection of interesting words with no clear meaning to a reader of ordinary skill in the art?

Indeed, Hardy's terminology is sufficiently unusual that its meaning is so unclear that whatever the meaning of Hardy's disclosure might be, it is not understood how the language of claim 5 quoted by the Examiner on page 7 of the official action is taught by Hardy.

Withdrawal of the rejections and allowance of the claims are respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

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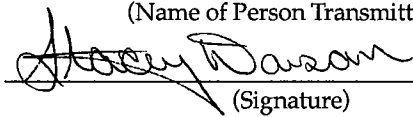
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Respectfully submitted,

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